

EXHIBIT 5

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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF MASSACHUSETTS

5 No. 04-CV-11948-RGS

6 SEYED MOHSEN HOSSEINI-SEDEHY,

7 Plaintiff

8 vs.

9 ERIN T. WITHTINGTON and the CITY
10 OF BOSTON,

11 Defendants

13 DEPOSITION OF ERIN T. WITHTINGTON

14 Thursday, March 31, 2005

15 10:00 a.m. - 4:32 p.m.

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24 Reporter: Cynthia C. Henderson/RPR

Erin T. Withington - March 31, 2005

<p style="text-align: right;">198</p> <p>1 Hosseini, from Mr. Hosseini's lawyer asking if you 2 could produce some police reports on your 3 investigation in which you said that you would draft 4 the reports within a week or so and give them to the 5 D.A.? Do you remember that conversation?</p> <p>6 A. No. I don't remember that conversation.</p> <p>7 Q. If I can have you take a look at Exhibit 23 8 actually, do you know what it is? I want to go back 9 to Exhibit 22 if I may and we will go back to 23 in 10 a moment, but the bottom of Exhibit 22 there is a 11 fax transmission?</p> <p>12 A. Yes.</p> <p>13 Q. Did you fax this report to somebody on 14 October 7, 2004?</p> <p>15 A. I assume 4861 is our Sexual Assault, it's 16 the fax at Sexual Assault.</p> <p>17 Q. My question is did you fax this report to 18 somebody on that day, October 7, 2004?</p> <p>19 A. I have no idea.</p> <p>20 MS. AMBARIK: I think she faxed it to 21 me. I think this was upon my request.</p> <p>22 Q. But it's fair to say that there was no hard 23 copy of Exhibit 22 in your files, your paper files 24 before October 7, 2004; correct?</p>	<p style="text-align: right;">200</p> <p>1 have had regarding the case.</p> <p>2 Q. 22 was generated before 23; correct?</p> <p>3 A. It doesn't necessarily mean that. That's 4 just the order that we put them in. The victim's is 5 always the followup.</p> <p>6 Q. So you don't know if Exhibit 22 was drafted 7 before or after Exhibits 23 and 24 and 25?</p> <p>8 A. I would assume Exhibit 22 was drafted 9 before. I don't know for a fact.</p> <p>10 Q. What's the date?</p> <p>11 A. Date assigned is March 22, 2004.</p> <p>12 Q. What about the date in the upper right-hand 13 corner?</p> <p>14 A. March 22, 2004.</p> <p>15 Q. I am looking at the wrong exhibit. I am 16 not going to ask you a third time. Now, what is 17 Exhibit 23? I don't think I asked you that.</p> <p>18 A. That's the interview that I had with Mr. 19 Hosseini.</p> <p>20 Q. And having read this report, Exhibit 23, 21 did you draft this report?</p> <p>22 A. Yes.</p> <p>23 Q. Is your memory refreshed as to the date 24 that you interviewed Mr. Hosseini?</p>
<p style="text-align: right;">199</p> <p>1 A. No. That's not fair to say.</p> <p>2 Q. It's not?</p> <p>3 A. No.</p> <p>4 Q. Do you have a hard copy of Exhibit No. 22 5 in your paper files?</p> <p>6 A. I would assume I do, yes.</p> <p>7 (Document entitled "Sexual 8 Assault Unit Case Update" marked 9 Exhibit No. 23 for 10 identification.)</p> <p>11 Q. Now, you can take a look at Exhibit 23, 12 please. What is this entitled?</p> <p>13 A. "Sexual Assault Unit Case Update."</p> <p>14 Q. That's the title. Is there any 15 significance to the title to this document?</p> <p>16 A. The case update?</p> <p>17 Q. Yes.</p> <p>18 A. I am saying that because you have got 19 different titles on 22, 23, 24, and 25. They just 20 go in order.</p> <p>21 Q. So would 22 have been drafted before 23?</p> <p>22 A. No. It just means 22 is your followup, 23 usually your victim's statement. Anything that 24 follows that after that is other conversations you</p>	<p style="text-align: right;">201</p> <p>1 A. Yes.</p> <p>2 Q. What date?</p> <p>3 A. March 4th, 2004.</p> <p>4 Q. In relationship to when you got back from 5 disability leave, what date was that?</p> <p>6 A. I am going to assume then it was either 7 March 3rd or 4th, 2004.</p> <p>8 Q. If you can go to Exhibit 25 very quickly.</p> <p>9 A. Okay.</p> <p>10 Q. The first line there, if you can read it to 11 yourself, does that indicate that you were out of 12 work from January 6th through March 3rd, 2004?</p> <p>13 A. Yes.</p> <p>14 Q. So is it fair to say that Mr. Hosseini came 15 down to meet with you on the first day you were back 16 from your disability leave?</p> <p>17 A. Yes.</p> <p>18 Q. And why did you have Detective Salley sit 19 in on your interview with Mr. Hosseini on that day?</p> <p>20 A. We always do interviews with suspects with 21 two people.</p> <p>22 Q. Why is that?</p> <p>23 A. Just common practice at the Sexual Assault Unit. </p>